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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

HONG NGHT PHUNG,

Plaintiff and Respondent,

v.

PAULINE PHAN TAT PHUNG,

Defendant and Appellant.

B232091

(Los Angeles County
Super. Ct. No. GD042939)

APPEAL from an order of the Superior Court of Los Angeles County,
Mary Lou Katz, Commissioner. Affirmed.

Pauline Phan Tat Phung, in pro. per., for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Hong Nghit Phung (Hong) obtained an order extending for five years a restraining order that prohibited his former wife Pauline Phan Tat Phung (Pauline) from harassing him. Pauline appeals. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In January 2009, a judgment was entered dissolving the parties' marriage.

In January 2010, Hong filed a request for a restraining order against Pauline. Following receipt of Pauline's answer, the trial court conducted a hearing. Both Hong and Pauline testified using the services of a Mandarin/English interpreter. Hong testified about specific incidents in which Pauline had harassed him. Pauline denied the harassment. The trial court explicitly found that Hong's testimony "to be credible" and, to the extent that Hong's testimony conflicted with Pauline's testimony, it credited Hong and disbelieved Pauline. The court granted the restraining order, to remain in effect until January 26, 2011.

In January 2011, Hong filed a request to renew the restraining order, claiming that Pauline was continuing to harass him in violation of the court's order. The trial court set the matter for a hearing.

In February 2011, the court conducted a hearing on Hong's request. As in the first hearing, the parties testified using the services of a Mandarin/English interpreter. After listening to both parties testify, the judge stated: "The court's heard enough. I find that [Hong] is still in reasonable fear of [Pauline]. [¶] . . . [¶] The court finds that to the extent that the parties' testimony is in conflict[,] that [Hong] is more credible than [Pauline]. [¶] In particular, [Pauline] has sat in court and made a big deal about apparently being in court. I'm looking at her very carefully, there are no tears. It appears to me to be [a] performance. I don't believe that she's sincere." When Pauline interrupted the trial court, the court

responded: “Stop talking. The court has made up its mind and you’re purporting to weep now and, you know, we have an expression in English called crocodile tears which is tears that are insincere. I don’t see any tears coming out of your eyes at all. I don’t think you are sincere.”

The trial court renewed the restraining order for a five-year period, warning Pauline that if she continued to violate the order, she could be charged with a crime. This pro. per. appeal by Pauline follows.¹

DISCUSSION

In this appeal, Pauline contends that the trial court’s decision “was incorrect because [it] was based on [the court’s] own feelings as to which party was more credible and [the court’s] feeling toward Pauline was not fair or appropriate.” Pauline argues that the trial court’s comments “showed [itself] to be prejudiced.” We disagree.

The parties presented conflicting testimony about the dispositive issue: did Pauline harass Hong? The trial court explicitly resolved that conflict in favor of Hong, stating, in part, that it disbelieved Pauline. We cannot overturn that decision. “Credibility is an issue for the fact finder. As we have repeatedly stated, we do not reweigh evidence or reassess the credibility of witnesses. [Citation.] “We have no power to judge of the effect or value of the evidence, to weigh the evidence, to consider the credibility of the witnesses, or to resolve conflicts in the evidence or in the reasonable inferences that may be drawn therefrom.” [Citations.]’ [Citation.] When, as here, ‘the evidence gives rise to conflicting reasonable inferences, one of which supports the findings of the trial court, the trial

¹ Hong has not filed a respondent’s brief.

court's finding is conclusive on appeal. [Citations.]” (*Johnson v. Pratt & Whitney Canada, Inc.* (1994) 28 Cal.App.4th 613, 622-623.)

Pauline next contends that she “did not have a fair hearing due to the cultural and language barrier.” Again, we disagree. The contention overlooks the fact that she, as well as Hong, testified through a court appointed interpreter. (Evid. Code, § 755, subd. (a).) If Pauline is arguing that the interpreter failed to perform competently, the claim is forfeited. In the trial court, Pauline never challenged the interpreter's qualifications or the accuracy of the translations. She cannot attack the interpreter's competency for the first time on appeal. (*People v. McNeal* (1954) 123 Cal.App.2d 222, 225.)

DISPOSITION

The order of February 16, 2011 extending the restraining order until February 16, 2116 is affirmed.

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.